

RESOLUTION

**RED BANK ZONING BOARD OF ADJUSTMENT
21 BROAD RB, LLC
21 BROAD RB TWO, LLC
21-23 BROAD STREET
RED BANK, NEW JERSEY
BLOCK 28, LOT 8
APPLICATION NO.: Z24-15546
R-2024-12**

INTRODUCTION

WHEREAS, representatives of 21 Broad RB, LLC and 21 Broad RB Two, LLC have made Application to the Red Bank Zoning Board of Adjustment for the property designated as Block 28, Lot 8, commonly known as 21-23 Broad Street, Red Bank, New Jersey within the Borough's CCD-2 Zone, for the following approval: Preliminary and Final Major Site Plan Approval, Floor Area Ratio Variance Approval, Change of Use Approval, and Bulk Variance Approval associated with a request to effectuate the following:

- Change of use at the site from a non-permitted hybrid of mixed jazz club / open market / office use to a primary food use (and potentially other / additional permitted uses);
- Interior renovations to the existing building at the site;
- Construction of a partial 3rd floor at the rear of the existing building;
- Construction / creation of a roof-top deck / garden;
- Renovation of the front façade of the building;
- Installation of a new staircase to the top floor; and
- Installation of new glass windows and metal canopies on the existing building; and

PUBLIC HEARING

WHEREAS, the Board held a Public Hearing on May 16, 2024, Applicants' representatives having filed proper proof of service and publication in accordance with Statutory and Ordinance Requirements; and

EVIDENCE / EXHIBITS

WHEREAS, at the said Hearing, the Board reviewed, considered, and analyzed the following:

- *Borough of Red Bank Department of Planning and Zoning Application Package, introduced into Evidence as A-1;*
- *Zoning Office Denial Letter, dated February 8, 2024, introduced into Evidence as A-2;*
- *Architectural Plans, prepared by S.O.M.E. Architects, P.C., dated February 8, 2024, consisting of 5 sheets, introduced into Evidence as A-3;*
- *Refuse and Recycling Plan, prepared by S.O.M.E. Architects, P.C., dated February 8, 2024, last revised March 21, 2024, consisting of 1 sheet, introduced into Evidence as A-4;*
- *Location Survey, prepared by George J. Anderson, LLC, dated August 18, 2023, consisting of 1 sheet, introduced into Evidence as A-5;*
- *Traffic Generation and Parking Calculation Letter Report, prepared by Klein Traffic Consulting, LLC, dated April 1, 2024, introduced into evidence as A-6;*
- *Red Bank Green Development Checklist, introduced into Evidence as A-7;*
- *Project Narrative, undated, introduced into evidence as A-8;*
- *Disclosure of Ownership Form, introduced into Evidence as A-9;*
- *T&M Associates Review Memorandum, dated April 19, 2024, introduced into Evidence as A-10;*
- *Supplemental T&M Associates Review Memorandum, dated May 15, 2024, introduced into Evidence as A-11;*

- *Architectural Plans, prepared by S.O.M.E. Architects, dated February 8, 2024, last revised April 26, 2024, consisting of 6 sheets, introduced into Evidence at A-12;*
- *Transmittal Letter from the Applicant's Attorney, dated May 6, 2024, introduced into Evidence as A-13;*
- *Review Memorandum from the Red Bank River Center, dated May 13, 2024, introduced into Evidence as A-14;*
- *Review Memorandum from the Municipal Historic Preservation Commission, dated May 15, 2024, introduced into Evidence as A-15;*
- *Resolution of the Red Bank Zoning Board of Adjustment (Resolution No.: 2019-18), dated June 20, 2019, relative to the 17 Broad Street, LLC Application regarding the 21-23 Broad Street, Red Bank, NJ property, introduced into Evidence as A-16;*
- *Aerial photograph of the subject area, introduced into Evidence as A-17;*
- *Affidavit of Service; and*
- *Affidavit of Publication;*

WITNESSES

WHEREAS, sworn testimony in support of the Application, was presented by the following:

- Marco Savo, Principal of the 2 Corporate Applicants;
- Edward O'Neill, Architect and Planner;
- Lee Klein, Engineer and Professional Traffic Engineer;
- John B. Andersen, Esq., appearing;

WHEREAS, Jacqueline Dirmann, P.E., CME, CFM, the Board Engineer, was also sworn with regard to any testimony / information she would provide in connection with subject Application;

WHEREAS, Shawna Ebanks, P.P., the Borough's Director of Community Development, was also sworn with regard to any testimony / information she would provide in connection with subject Application;

TESTIMONY AND OTHER EVIDENCE PRESENTED ON BEHALF OF THE APPLICANT

WHEREAS, testimony and other evidence presented on behalf of the Applicants and their representatives reveal the following:

- The Applicants, or an Agent thereof, are the Owners of the subject property.
- The Applicants have owned the subject property since approximately October of 2023.
- There is an existing masonry commercial building at the site. (Part of the existing building is 1-story, part of the existing building is 2-stories, and part of the existing building is 3-stories.)
- Upon information and belief, the existing building was constructed in or about the 1920's.
- Per prior (2019) approval of the Red Bank Zoning Board of Adjustment, the site was authorized to be utilized as a hybrid type of mixed jazz club / open market / office use.
- Notwithstanding the above-referenced 2019 approval, the property was not utilized as a hybrid type of mixed jazz club / open market / office use.
- The existing building is currently vacant.
- Portions of the building have been vacant for approximately 15 years, perhaps longer.
- The Applicants' representatives propose to effectuate a number of improvements at the site.
- The Applicants' representatives also propose to change the use at the site.
- The Applicants' representatives submitted the within Application in the hope of effectuating the following:

- Change of use at the site from a non-permitted hybrid of mixed jazz club / open market / office use to a primary food use (and other potentially permitted uses);
 - Interior renovations to the existing building at the site;
 - Construction of a partial 3rd floor at the rear of the existing building;
 - Construction / creation of a roof-top deck / garden;
 - Renovation of the front façade of the building; and
 - Installation of new glass windows and metal canopies on the existing building.
- No specific Tenant or Tenants have yet been identified for the building.
 - The Applicants’ representatives are seeking flexible approval to have the building utilized as a total primary food use, or a combination of a primary food use and other permitted uses.
 - The Applicants’ specific breakdown of Tenants will depend on a number of market forces, and the same will also depend on the various Tenants which are selected to occupy the site.
 - In order to obtain as much Tenant / use flexibility as possible, the Applicants’ representatives have submitted the within proposal in the hope of obtaining the most potentially intense parking relief (so that further Board appearances will not be required to host permitted uses with potentially increased parking demands).
 - Details pertaining to the Applicants’ proposed general use include the following:

Anticipated type of Use:	Primary Restaurant
Other potential uses:	There are no Tenants specifically identified for the subject site. However, depending on market forces, there may be multiple Tenants in the building, including a primary food use, and other uses specifically permitted by the Prevailing Zoning Ordinance. The Applicants’ Representative who testified indicated that he may or may not be a principal in the proposed Restaurant operation.

<p>Applicants' description of proposed primary food Restaurant:</p>	<p>The Applicants' representatives provided an extensive description of the proposed Restaurant. Specifically, the Applicants' representatives described the establishment as a classy, fine dining experience, geared towards all ages (over 21).</p> <p>The testimony indicated that the proposed primary food establishment will not be a night club, nor will the same be a traditional bar. The Applicants' representatives propose to create a fine dining experience, where patrons can eat a meal and maybe listen to a piano player, jazz music, and the like.</p> <p>The Applicant's representatives propose to create a "Great Gatsby" – inspired Supper Club, which will make the patrons feel like they are in the 1930's.</p> <p>The Applicants' representatives intend to create a fine dining experience where one just does not arrive, order a meal, consume the meal, pay the check, and return home. Rather, the Applicants' representatives want to create a space as part of the overall fine dining experience, or after the fine dining experience, where patrons can sit and be entertained.</p> <p>The Applicants' representatives expressed concern that a typical bar would be too loud, too problematic, too rowdy, too noisy, and would compromise the ability for individuals to enjoy such a fine dining experience. Rather, as indicated, the Applicants' representatives want to offer a fine dining / classy experience where there is something to do after the meal is consumed. The Applicants' representatives feel there are not any similar establishments in the greater Red Bank area – and there is definitely a need for the same.</p>
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Architectural style of building:	The Applicants' Architect testified that the building will be restored in an Art Moderne style type of architecture. Art Moderne architecture, sometimes referred to as streamlined modern, was, essentially, a design which emerged during the 1930's. The said architectural style emphasized curving forms, long horizontal lines, rounded corners, flat roofs, horizontal bands of windows, and smooth walls with no ornamentation. (See Google.)
Hours of Operation:	Per restrictions in Borough Ordinances and per restrictions in any ABC regulations.
General Type of Food Offered:	Meals served: It is anticipated that the primary food use will serve lunch and dinner; however, the Applicants' representatives did reserve the right to serve breakfast, if there is a demand for the same.
Cooking on premises ?:	Yes
Liquor License Details:	The Applicants will be applying for and/or pursuing an applicable Liquor License from the Borough of Red Bank and / or the State of New Jersey (Department of Alcohol and Beverage Control.) The same may also include permission for a B.Y.O.B. type of License.
Anticipated number of employees associated with the operation:	Per testimony.
Type of Employees:	Bartenders, waiters, waitresses, bouncers, cooks.
Maximum occupancy / seating capacity:	Per Building / Construction Code.
Target age group of proposed patrons:	(Over 21) Individuals, likely more mature individuals looking to enjoy a fine dining experience.
Patrons expected to hail from:	The patrons are expected to hail from the general Monmouth County area, including Red Bank.
Entertainment to be offered at the site:	The live entertainment to be offered at the site will include soft jazz music, piano music, and the like.

Noise levels associated with entertainment emanating from the Applicant's facility:	None. The Applicant's representatives essentially testified that there will be no loudspeakers outside, and that there will be no music / noise emanating from, or to be heard outside of, the existing building. The testimony also clearly confirmed that noise associated with or emanating from the site will comply with the Borough's prevailing noise ordinance.
Outside entertainment:	There will be no outside entertainment.
Patron parking:	Self-serve, potential valet
Security:	The Applicant's representatives will provide bouncers as necessary and employ other security personnel, if necessary.
Delivery details:	Deliveries will be made from the back alley off of Mechanic Street.
Type of vehicles to be utilized in the delivery process;	Small trucks, Federal Express / UPS type of trucks. No tractor trailers.
Delivery / loading location details:	Food, liquor, and other items will be delivered through the rear of the building.
Approximate Floor sizes:	Basement: 1,571 SF 1 st Floor: 3,393 SF 2 nd Floor: 3,238 SF 3 rd Floor: 1,567 SF Roof-top Deck: 800 SF
Roof-top Deck Details:	The roof-top deck will contain approximately 800 SF. The roof-top deck will be roughly / approximately ½ of the size of the 3 rd floor. In that the roof-top deck will be surrounded by brick walls, patrons will not be able to overlook Broad Street. Rather, roof-top patrons will only be able to enjoy an outdoor roof-top experience, with ability to see the sky / stars.
Physical improvements:	<ul style="list-style-type: none"> - Construction of an exterior staircase to the 3rd Floor; - Improvements / upgrade to the lobby; - Installation of an elevator which will traverse from the basement to the top floor;

	<ul style="list-style-type: none"> - Restoration and painting of exterior façade; - Relocation and replacement of the existing store-front door;
Improvements contingent on selection of Tenants?:	No. The installation of the above-referenced physical improvements are not contingent upon the Applicants securing a Tenant, or any Tenant, for the building. The aforesaid improvements will definitely be effectuated regardless of whether the building is leased, and regardless of to whom the subject building is leased. That is, the Applicants' representatives maintain that the above-referenced improvements will be completed in the very quick fashion, regardless of any Tenants ultimately selected for the site.
Awnings:	The 1 st , 2 nd and 3 rd Floor windows will have sunshades.
Size of 3 rd Floor addition:	Per approved plans

- Upon completion of the renovation process, the building will include the following:

Basement

Wine Cellar
 Wine Tasting Area
 Storage Area #1
 Storage Area #2
 Mechanical Area
 Staff Restroom
 Machine Room
 Supply Room
 Janitor's Closet
 Elevator

1st Floor

Restaurant / Dining
 Restaurant Kitchen
 Reception Area
 Restrooms
 Janitor's Closet
 Elevator

2nd Floor

Restaurant Dining Area
Restrooms
Janitor's Closet
Elevator

3rd Floor

Seating Area
Reception Area
Bar Kitchen
Restrooms
Mechanical Equipment Area
Outdoor Roof Garden
Elevator

- It is anticipated that the improvements will be completed in the near future.
- The Applicants' representatives will be utilizing licensed contractors in connection with the construction / renovation / development process.

VARIANCES

WHEREAS, the Application as presented and modified requires approval for the following Variances:

FLOOR AREA RATIO: A maximum Floor Area Ratio of 1.7 is allowed; whereas 3.3 exists, and 3.4 is proposed;

OFF-STREET PARKING SPACES: 143 parking spaces are required; whereas 0 such spaces exist. (In or about 2019, a prior Applicant received a Variance for 88 such spaces.) Thus, the within Application requires additional parking relief for an additional deficiency of 55 spaces;

LOT COVERAGE: The Prevailing Ordinance allows a maximum Lot Coverage of 65%; whereas, the existing Lot Coverage at the site is 100%;

OFF-STREET LOADING SPACE: The Prevailing Ordinance provides 1 off-street loading space for any building having 10,000 SF of gross floor area or more; whereas, in the within situation, no loading area is currently provided at the site;

SIDE YARD SETBACK: A Side Yard Setback of 10 ft. is required for any use abutting a residential Zone or use; whereas, in the within situation, the adjacent property at 19 Broad Street contains residential apartments on the 2nd and 3rd Floors. Thus, in that the Applicant herein is proposing an addition to the rear of the building (over the existing 3rd Floor), at a Setback of 0 ft., a Variance is required;

PUBLIC COMMENTS

WHEREAS, the following members of the public expressed statements in connection with the Application:

- Linda Cohen

FINDINGS OF FACT

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Adjustment of the Borough of Red Bank, after having considered the aforementioned Application, plans, evidence, and testimony, that the Application is hereby **approved / granted with conditions**.

In support of its decision, the Board of Adjustment makes the following Findings of Fact and Conclusions of Law:

1. The Red Bank Zoning Board of Adjustment has proper jurisdiction to hear the within matter.
2. The subject property is located at 21-23 Broad Street, Red Bank, NJ, within the Borough's CCD-2 Zone.

3. There is an existing 3 story building at the site, with an existing basement. (A portion of the existing building is 1-story, a portion of the existing building is 2-stories, and a portion of the existing building is 3-stories.)

4. The Applicants herein propose to change the use at the site and to effectuate a number of improvements.

5. The Applicants' proposed improvements include the following:

- Change of use at the site from a non-permitted hybrid of mixed jazz club / open market / office use to a primary food use (and potentially other / additional permitted uses);
- Interior renovations to the existing building at the site;
- Construction of a partial 3rd floor at the rear of the existing building;
- Construction / creation of a roof-top deck / garden;
- Renovation of the front façade of the building;
- Installation of a new staircase to the top floor; and
- Installation of new glass windows and metal canopies on the existing building; and

6. The details of the Applicant's proposed / general operation are set forth elsewhere herein, set forth on the submitted Plans, and were also discussed, in detail, during the Public Hearing process.

7. The Application as presented also requires Site Plan Approval, Bulk Variance Approval, Change of Use Approval, and Floor Area Ratio Variance Approval.

8. The Red Bank Zoning Board of Adjustment is statutorily authorized to grant such relief and therefore, the matter is properly before the said entity.

9. With regard to the Application, and the requested relief, the Board notes the following:

PERMITTED USE

- As indicated, the proposed primary food use is a permitted use in the subject CCD-2 Zone.
- The Applicants' representatives indicated that no specific Tenants have yet been identified and thus, the Applicants' representatives are not in a position to comment on specific uses, any specific combination of uses, and/or the exact size associated with any particular uses.
- For such reasons, the Applicants' team has submitted a so-called flexible plan so as to accommodate any potential Tenants (depending on which particular Tenants are ultimately interested in leasing the building).
- The aforesaid flexible plan / approach will allow the Applicants the ability to consider multiple potential Tenants (for permitted uses), without having to return to the Zoning Board (once any specific Tenant is identified).
- Under certain circumstances, the flexible approach, as aforesaid, could be potentially problematic – i.e., in that different parking ratios / calculations might need to be utilized, depending on the specific Tenant, the specific use, or the specific size dedicated for each proposed tenant. For instance, primary food use requires 14 off-street parking spaces for each 1,000 SF of gross floor area. However, retail use, or office use, would involve a different / less parking ratio. The concern would be that if the specific uses / tenants were not identified to the Board, the exact parking requirement (for the overall proposal) might not be able to be calculated with any specificity.
- In the within situation, such flexible planning will not be problematic for the Board.
- In the within situation, the Applicants' representatives calculated the most conservative parking demands by anticipating that the entire building will be utilized for primary food use (which is the most intense parking calculation utilized in the Borough).
- Thus, the most extreme / conservative parking demand has been calculated for the site based upon the "worst case" scenario in terms of parking. If the within building is used by a variety of Tenants, which generate a lesser parking demand than approved herein, then, in that event, there will be no detriment to the Borough.
- In the within situation, the Applicant has applied for, and provided testimony / documentation in support of, the maximum potential parking demand at the site.
- Consequently, in the within situation, approval of the Applicants' flexible development plan will not cause substantial detriment to the public good.
- As referenced, the Applicants' proposed use is a permitted use.

- All potential uses at the site shall be permitted uses (i.e., permitted under the Prevailing Zoning Ordinances).
- If the Applicants decide to utilize the building, or any portion thereof, for a use which is not specifically permitted under the Prevailing Borough Regulations then, in that event, the Applicants will be required to reappear to the Zoning Board so as to obtain further amended relief.
- The Board notes that approval of the within Application will not result in the introduction of any non-permitted use at the site.

TRAFFIC

- During the Public Hearing process, there was extensive testimony, debate, and discussion regarding the traffic impact associated with the subject proposal.
- The Applicants' representatives submitted a Traffic Generation and Parking Calculation Report, prepared by Klein Traffic Consulting, LLC, dated April 1, 2024 (A-6).
- The Applicants' representatives also presented the professional testimony of Lee Klein, a qualified and Licensed Engineer / Traffic Engineer.
- The Applicants' Traffic Engineer was retained so as to assess the traffic impact the project / proposal use would have on the adjacent roadway network, etc.
- In preparing the aforesaid Traffic Generation and Parking Calculation Report, the Applicants' representatives reviewed, considered, and evaluated a number of documents, studies, methodologies, analyses, and professional guidelines.
- Given the nature, size, and scope of the proposal and requested relief, such an extensive Traffic Generation and Parking Calculation Report was appropriate.
- Given the nature, size, and scope of the proposal, a Traffic Generation and Parking Calculation Report which did not sufficiently address and incorporate all of the above issues / factors would not have been appropriate.
- In conjunction with the aforesaid Traffic Generation and Parking Calculation Report, the Applicants' representatives appropriately considered traffic demands associated with the prior approval for the site, as well as proposed use. The said analysis of demands associated with the prior approval and the proposed operation included field investigations of the surrounding roadways and intersections, a review of traffic / volume data, and analysis of the various intersections.

- As referenced, the Zoning Board’s prior approval for the site authorized the subject property to be utilized as a non-permitted hybrid type of mixed jazz club / open market / office use.
- Specifically, per the prior (2019) approval, the currently approved use for the site is as follows:

Basement

Jazz Club type of operation

Ground Floor

Open Market i.e., combination produce vendor stand
Expresso / Cocktail Bar Area
Open type market with multiple vendor stands

2nd Floor

Office Space

3rd Floor

Office Space

- In the aforesaid Traffic Generation and Parking Calculation Report, the Applicants’ Traffic Engineer advised as follows:
 - A) *... We calculated the Trip Generation of the approved uses and the proposed uses. Table I shows the change from 5,900 SF of office space, 3,900 SF of retail space, and 4,000 SF basement Jazz Club with alcohol service to a 10,847 SF Fine Dining Restaurant will generate 12 less peak hour trips during the weekday A.M., 15 less peak hour trips during the weekday P.M., and 50 additional trips during the Saturday peak hours. This change of use would generate less than 100 new peak hour vehicle trips; therefore, based on industry guidelines (a formal) Traffic Impact Study is not required. (Citations omitted.)*
 - B) *According to Transportation and Impact Analysis for site development, published by the ITE, (Institute of Traffic Engineers), an increase of less than 100 vehicle trips would not change the level of service of the local street network, nor appreciably increase the volume to capacity ratio of an intersection approach. Also, NJDOT Asset Management Code considers a significant increase in trips (to be increased) greater than 100 peak hour trips and greater than a 10% increase in previously anticipated daily trips. Therefore, the traffic generated by the proposed change of use is not*

anticipated to significantly impact the operation of the local streets.

- The submitted Traffic Generation and Parking Calculation Report (A-6) contained the following conclusion:

... We calculated the parking requirements for the previous uses and the proposed use using Ordinance Section 490-98 Off-Street Parking. Table 2 Parking Requirements summarizes the parking requirements for the approved uses as totaling 88 parking spaces, 30 (parking spaces) for the 5,900 SF of office space at a rate of 5 parking spaces per 1,000 SF, 18 parking spaces required for the 3,900 SF of retail space at a rate of 4.5 parking spaces per 1,000 SF, and 40 parking spaces for the 4,000 SF Bar at a rate of 10 parking spaces per 1,000 SF. The proposed 10,847 SF Restaurant (later changed to 10,223 SF) requires 152 (later verbally changed to 143) parking spaces, at a rate of 14 parking spaces per 1,000 SF. The change in the number of parking spaces increases when changing the uses from 3,900 SF of retail space, 5,900 SF of office space, and 4,000 SF of Bar space to a 10,847 SF Restaurant (later changed to 10,223 SF) would be 64 (later verbally changed to 55) additional parking spaces.

- A majority of the Board accepts the aforesaid traffic conclusions, as modified and identified in the A-6 document.
- The Applicants' Traffic Generation and Parking Calculation Report is incorporated into the within Resolution, at length.
- Per the testimony and evidence presented, the approved Use will generate 12 less peak hour trips during weekday mornings (than what was previously approved for the site in 2019). The Use approved herein will generate 15 less trips during the weekday p.m. hours as well (as opposed to what was previously approved for the site). Finally, per the testimony and evidence presented, approval of the within Application will generate 50 additional trips during the Saturday peak hour (as opposed to what was previously approved).
- Based upon the above, a majority of the Board finds that, from a traffic standpoint, approval of the within Application will not be materially more impactful than what was previously approved for the site.
- Based upon the extensive testimony and evidence presented, a majority of the Board finds that approval of the within Application will not materially affect overall traffic conditions at and around the site.

- Based upon the extensive testimony and evidence presented, a majority of the Board finds that approval of the within Application will not materially compromise functional / practical levels of service associated with the existing / surrounding roadway network.
- Approval of the within Application will not materially aggravate the existing traffic circulation at and around the site.

PARKING

- As is common with any Commercial Development Application in the greater Broad Street Area, parking was a very important concern for many Board Members.
- As referenced, though no specific Tenant has yet been identified, and though there has been no specific breakdown as to the square footage associated with the proposed tenant / tenants in the building, as indicated, the Applicant's representatives have calculated the overall parking demand based upon the "worst case" scenario. That is, each prospective permitted use has a mathematical methodology to calculate the overall parking demand. The specific Tenant use and specific size of each proposed Tenant use is not yet known. Consequently, as referenced, in the within situation, the Applicants' representatives have utilized the most conservative and extreme parking calculation methodology so as to establish the overall parking demands for the site. Such an over-intense parking calculation methodology will ensure, to the greatest extent possible, that neither the interests of the Borough of Red Bank, nor the Zoning Board, are compromised.
- The most intense parking calculation is generated by a primary food use, which requires approximately 14 off-street parking spaces for each 1,000 SF of gross floor area at the site.
- The Applicants' representatives have calculated the overall parking demand by assuming that the entire 10,224 SF building will be utilized as a primary food use (Restaurant). Under the Borough's Prevailing Zoning Regulations, if the entire 10,224 SF building were to be utilized as a primary food use (Restaurant), then, in that event, the site would be required to have 143 off-street parking spaces (i.e., $10,224 \text{ SF of building} \div \text{by } 1,000 = 10.224 \times 14 = 143.136$, round down to 143 parking spaces).
- No off-street parking spaces are provided at the subject site.
- Thus, if there were no known prior approval for the site, and the within Application involved the construction of a new building (same size), then, in that event, the Applicants' proposed use would require 143 parking spaces (where no such spaces are proposed).

- In or about 2019, the Zoning Board of Adjustment previously approved a Development Application for the subject site, for a Mixed Use (Jazz Club / open Market / Office Use). The memorializing Resolution from the 2019 approval was marked into the Record as A-16.
- The 2019 Approval (A-16) essentially approved a Parking Variance for an 88 space parking deficiency.
- As referenced, approval of the within Application will increase the overall parking demand from 88 spaces to 143 such spaces.
- Thus, approval of the within Application will increase the overall parking demand at the site by approximately 55 spaces (143 spaces needed less 88 space deficiency previously granted = 55 additional parking deficiency associated with the within Application).
- The Board Members critically reviewed the overall Parking Variance – for an additional deficiency of 55 spaces could potentially be significant.
- All Board Members critically reviewed the overall parking situation – and to do any differently would have constituted a dereliction of Board duties.
- Some Board Members were concerned with regard to the proposed parking situation / Parking Variance.
- Some of the parking concerns, as aforesaid, included the following:
 - a. A concern that sufficient professional proof had not been submitted to justify the previously approved Parking Variance jumping from an 88 space deficiency to a 143 space deficiency;
 - b. A concern that, under the circumstances, an increase in the on-site parking deficiency (from 88 spaces to 143 spaces) was not appropriate;
 - c. A concern that increasing the overall parking deficiency at the site (from 88 spaces to 143 spaces) would cause substantial detriment to the public good;
 - d. A concern that the subject building, and the potential Tenant spaces associated therewith, have essentially been “maxed-out;”
 - e. A concern that substantially reducing the overall parking deficiency / Variance at the site would be appropriate (under the circumstances);
 - f. A concern that each floor of the building appeared to be maxed-out for occupancy purposes / parking purposes;

- g. A concern that with a few modifications, the overall parking demand / Variance could be significantly reduced;
- h. A concern that, by design, the overall capacity level of the subject building could accommodate a very large number of people, potentially calculated as follows:
 - The Basement: Designed to potentially accommodate a maximum of approximately 20-30 people at one time;
 - First Floor: Designed to potentially accommodate a maximum of approximately 75-100 people at one time;
 - Second Floor: Designed to potentially accommodate a maximum of approximately 200 people at one time;
 - Third Floor: Designed to potentially accommodate a significant amount of people at one time.
- i. A concern that the maximum occupancy levels, as referenced above, might be just too intense for the site;
- j. A concern that the overall intensity parking demand for the site (as proposed) could be detrimental to the overall zoning plan;
- k. A concern that the overall intensity / parking demand associated with the proposal could be detrimental to some surrounding uses;
- l. A concern that the overall intensity / parking demand as proposed could be substantially detrimental to the public good;
- m. A concern that the overall intensity / parking demand, as proposed, could adversely impact the quality of life for area residents;
- n. A concern that the parking deficiency, as proposed, is just too intense;
- o. A concern that the proposed parking deficiency is just too intense and not appropriate under the circumstances;

- p. A concern that the aforesaid parking deficiency could be further impactful as a result of the recent reinstatement of the Borough's "Broadwalk" Program (whereby the northern part of Broad Street is temporarily cut-off to vehicular traffic so as to provide greater dining / shopping options for the Broad Street area businesses / shops, etc.);
 - q. A concern that the Applicants' representatives could not identify the number of on-street parking spaces temporarily lost as a result of the aforesaid Borough's "Broadwalk" Program;
 - r. A concern that the Applicants' parking deficiency could be particularly impactful to residents who live on or in the vicinity of nearby Wallace Street;
 - s. A concern that despite testimony from the Applicants' representatives to the contrary, the eastern public parking lots in the Borough might not be reasonably accessible / available on a typical Saturday evening;
 - t. A concern that sufficient professional / lay testimony was not presented to justify the additional 55 space parking deficiency;
 - u. A concern that business / restaurant customers / patrons impermissibly park on the residential portion of Wallace Street even though business customers are not supposed to park in the said location;
 - v. A concern that approval of the within Application / Parking Variance may promote commercial uses at the risk of, and to the detriment of, residential uses within the Borough; and
 - w. A concern that all Borough residents may not necessarily be benefitted by further commercial development in the Borough's Downtown Area.
- Board Members also publicly reviewed, discussed, debated, and analyzed the benefits of the requested Parking Variance.
 - Reasons to grant the requested parking relief included, but were not necessarily limited to, the following:
 - a. A belief that the existing building has already been constructed and that the "new" portion of the building approved herein is relatively insubstantial;
 - b. A belief that sufficient professional testimony was provided to justify the requested Parking Variance relief;

- c. A belief that, per the traffic testimony presented, the change of use approved herein will: actually lower parking demands for the site (on weekday mornings / afternoons) (as compared to what was previously approved;
- d. A belief that approval of the within Application will only generate additional 50 vehicles on a typical Saturday evening;
- e. A belief that the above-referenced traffic impact is relatively minimal, further re-enforcing the idea that the Parking Variance can be granted without causing substantial detriment to the public good;
- f. A belief that there may be valet parking for the patrons at the site, so as which would further minimize any disruption to the traveling public (associated with the subject application);
- g. A belief that there is ample off-street parking available in the area of the Applicants' building (to accommodate some of the excess traffic generated by the subject proposal);
- h. A belief that there are other public parking areas in the vicinity of the Applicants' building;
- i. A belief that many other similar downtown establishments in the CCD-2 Zone (including other similar primary food service establishments and primary liquor establishments) do not necessarily have sufficient, let alone any, off-street parking on site;
- j. A belief that the Applicants' proposed permitted use would presumably have peak parking demands in the evening hours, well after (i.e., not competing with) the peak parking demands of other local establishments in the area;
- k. A belief that the Applicants' representatives have chosen the Borough of Red Bank as a host site because of the Borough's reputation as a hip town, and because of the active night life associated with the Borough;
- l. A belief that the lack of dedicated parking for the proposed use will not diminish the attractiveness / marketability / success of the Applicants' venture;
- m. A belief that, as already referenced herein, the Applicants' proposal has been designed to address the "worst case" parking scenario;

- n. A belief that it is possible that once the actual Tenants / square footages of the Leased premises are specifically identified, the overall parking demand for the site, may be less intense than the additional 55 space deficiency approved herein;
- o. A belief that if multiple separate Tenants were identified for the building, the site could operate at a much less intense parking deficiency than what is approved herein;
- p. A belief that in 2019, the Board already approved an 88 space parking deficiency, and that the extra parking deficiency approved herein is, under the circumstances, appropriate and reasonable;
- q. A belief that the existing high-profile vacancy in the Borough's major business thoroughfare is problematic, and that the same does not promote / project economic vitality / strength / confidence;
- r. A belief that attempts to help fill an existing high-profile commercial vacancy in the Borough's major downtown thoroughfare (and granting the associated Parking Variance) will have short-term and long-term benefits for the site, the neighborhood, and the community as a whole;
- s. A belief that the approval of the subject Parking Variance will not have a significant impact on the other area businesses / residences;
- t. A believe that existence of nearby Parking Lots (including the East side Parking Lot, the Mechanic Street Lot, the White Street Lot, the proposed Marine Park Parking Lot, the Globe Court Garage and the Globe Court Surface Lot) help mitigate any adverse issues otherwise associated with the requested parking relief;
- u. A belief that the Applicants' evening peak parking demands will not compete with the daytime peak parking demands of other area businesses, thereby further minimizing any overall impacts associated with the subject Parking Variance;
- v. A belief that the Shared Parking Analysis employed by the Applicants herein (and many other area businesses in the Broad Street area) will allow uses with non-competing peak parking demands to more harmoniously operate within the confines of the existing downtown development scheme;

- w. A belief that, per the testimony / evidence presented, there is really no practical / functional way to create any on-site parking spaces at the site – in so far as the existing building / improvements compromise approximately 100% of the existing Lot;
- x. A belief that the only practical / functional way to create parking spaces on the site would likely involve the simultaneous demolition of all or a portion of the existing building;
- y. A belief that, under the circumstances, it would not be appropriate to demolish any part of the existing / somewhat iconic building for purposes of creating parking spaces at the site;
- z. A belief that, per the testimony and evidence presented, there does not appear to be any type of adjacent land available for parking use, as the said surrounding area is already fully developed;
- aa. A belief that there are tremendous benefits associated with the adaptive re-use of the building, as approved herein,
- bb. A belief that approval of the within Application will hopefully provide area shoppers / patrons with one more reason to eat / shop / enjoy Red Bank;
- cc. A belief that many individuals / shoppers / patrons / customers who will come to the site will also be shopping / eating / patronizing at other area establishments;
- dd. A belief that the Borough's "Broadwalk" Program enhances the overall desirability / vitality of the Borough's Downtown Area;
- ee. A belief that approval of the within Application will not compromise the Borough's so-called "Broadwalk" Program;
- ff. A belief that at most times, the other nearby public parking lots are accessible to area residents / shoppers / diners;
- gg. A belief that, per the testimony and evidence presented, the overall traffic / parking impact (associated with the within Application) will not be concentrated in just one area, or just one Lot; rather, the overall traffic / parking impact associated with the within proposal will be distributed evenly throughout the entire Town (thereby further minimizing any adverse impacts otherwise associated with the subject proposal);

- hh. A belief that, per the testimony and evidence presented, other parking deficiencies at other area restaurants, office buildings, theaters, etc. are also distributed / felt throughout the entire Red Bank Community (as opposed to just 1 area of the Town);
- ii. A belief that, per the testimony and evidence presented, the distribution of the extra 55 space parking deficiency (associated with the subject Application) throughout the entire Downtown Area further minimizes the nature / extent of any adverse issues associated with the requested Parking Variance relief;
- jj. A belief that, per the testimony and evidence presented, there will be no adverse traffic / parking impact associated with the within approval;
- kk. A belief that, per the testimony and evidence presented, by some counts, there may be approximately 800 public parking spaces available in the area, which would further help minimize any adverse impacts associated with the subject proposal;
- ll. A belief that while parking is, and remains, an important and significant issue for the Borough of Red Bank, approval of the within Application will not substantially compromise the overall zoning plan;
- mm. A belief that while parking is, and remains, a significant issue for the Borough of Red Bank, approval of the within Application can, under the circumstances, be granted without causing substantial detriment to the public good;
- nn. A belief that while parking may be quite problematic in the area for some designated timeframes during a portion of each particular weekday, for the reasons set forth during the Public Hearing process, approval of the within Application can be granted without causing substantial detriment to the public good;
- oo. A belief that while it is necessary to study / analyze / improve overall parking within the greater Downtown Area, approval of the within Application will not materially exacerbate the overall parking deficiency at the site / area;
- pp. A belief that approval of the within Application will not cause substantial detriment to the local residents, including those individuals who live on or near Wallace Street;

- qq. A belief that if individuals / shoppers / diners are improperly parking on Wallace Street (in areas dedicated / restricted for residents), then, in that event, better enforcement should / could be implemented;
 - rr. A belief that the Applicants' voluntary participation in the Downtown Valet Program can further help minimize the impact associated with the granting of the requested municipal parking relief; and
 - ss. A belief that while it was necessary and appropriate to consider potentially adverse issues that approval of the within commercial Application may have on the Borough's greater residential base, in the within situation, and subject to the conditions contained herein, a majority of the Board is of the belief that the Application and parking relief can be granted without causing substantial detriment to the public good.
- As referenced, there was a good-faith, and intense public debate / discussion as to the general parking issues associated with the Borough of Red Bank, and the Applicants' specifically requested parking relief.
 - All point of view were valid, recognized, respected, and worthy of discussion / review.
 - All points of view were freely discussed, as is essential in a healthy democracy.
 - After considering all points of view, and for the reasons set forth herein and during the Public Hearing, a majority of the Board has determined that the benefits of granting the Parking Variance out-weigh any detriments associated therewith.

HISTORIC PRESERVATION

- The within approval involves a building which, upon information and belief, was constructed in or about the 1920's.
- The existing building, upon information and belief, has some historic aspects associated therewith.
- The subject proposal was forwarded to the Municipal Historic Preservation Commission for further review and comment.
- The Historic Preservation Commission Members critically reviewed the proposal and offered written comments / suggestions associated therewith (A-15).
- The Municipal Historic Preservation Commission endorsed the project, subject to certain conditions, including, the following:

- a. A requirement that the building façade be painted in a historic color palette;
 - b. A requirement that the entryway of the building be tiled in such a way as to highlight / reference the actual building address;
 - c. A requirement that the “Doremus” insignia on the outside of the existing building be painted / highlighted (in a manner which will match the remainder of the existing building façade); and
 - d. A requirement that some type of plaque be installed in the interior of the building, describing its historic past / impact.
- The Applicants’ representatives publicly agreed to the aforesaid HPC conditions / recommendations.
 - The Board appreciates the dedicated and conscientious manner in which the HPC reviewed the subject Application.
 - The Board appreciates the willingness of the Applicants’ representatives to address and incorporate the aforesaid HPC conditions / restrictions / concerns.
 - Approval of the within Application, in conjunction with guidelines / directions from the HPC, will result in a period-appropriate renovation for the subject older building.
 - It is important to not only preserve older buildings, but to have the same renovated in a historically appropriate fashion (when appropriate).
 - Subject to the conditions set forth herein, approval of the within Application will result in a historically appropriate renovation of the subject older building.
 - Historically appropriate renovation of older buildings is a laudable development goal.
 - Subject to the conditions set forth herein, approval of the within Application will advance the Master Plan goals / objectives of promoting the Borough’s rich history.
 - Historically appropriate renovation adds to the overall architectural charm of the Borough of Red Bank, and the Borough’s Downtown Area.
 - Historically appropriate renovation is consistent with Master Plan Goals and Recommendations.
 - Historically appropriate renovation advances the interests of the Borough of Red Bank, and the history-appreciating residents of the Borough.

- Historically appropriate renovation will advance one stated purpose of the Municipal Land Use Law which encourages the creation of desirable visual environments.

FLOOR AREA RATIO VARIANCE

- The Application as presented requires approval for a Floor Area Ratio Variance.
- The relevant Floor Area Ratio (FAR) calculations include the following:

Maximum allowable FAR	1.7
Existing FAR	3.3
Proposed FAR	3.4

- The Board is aware that, generally speaking, the standard for FAR Variance relief is whether the site can accommodate the proposal, notwithstanding the excess FAR.
- The Board notes that, in many respects, the FAR Variance can be directly related to certain physical improvements associated with the proposal – including, the following:
 - a. Installation of an elevator, significantly improving the overall ADA accessibility at the site;
 - b. Installation of bathrooms on the third floor at the site (where no such bathrooms currently exist);
 - c. Installation of a new staircase (to the existing third floor) so as to comply with Prevailing Building / Construction Code Regulations; and
 - d. Installation of other ADA-related improvements.
- The Board recognizes that the aforesaid improvements are important health / safety issues, which directly increase the overall Floor Area Ratio at the site.
- Notwithstanding the need for the FAR Variance, there are tremendous benefits associated with the aforesaid health / safety / ADA-related improvements.
- In 2024, it is not appropriate to have a building used for a modern use which is not fully accessible for handicapped individuals, or other individuals whose mobility is compromised.
- The quality of life / accessibility improvements, as referenced herein, are beneficial for the site, the neighborhood, and the community at large.

- The aforesaid health / safety / ADA-related improvements are necessary to make the existing building more usable, more open, and more accessible to all.
- The aforesaid bathroom / elevator improvements do not necessarily create more living / usable space at the site; rather, as indicated, the same simply improve overall health / safety / accessibility.
- The aforesaid improvements (bathroom / elevators / staircase) should not be readily visible from the greater Broad Street area.
- Subject to the conditions set forth herein, the subject site can, in fact, accommodate the improvements, notwithstanding the non-conforming FAR.
- The Board recognizes that a non-conforming Floor Area Ratio was previously approved by the Zoning Board in or about 2019.
- The Board further recognizes that approval of the within Application will increase the overall FAR at the site from 3.3 to 3.4 which, under the circumstances, is relatively de-minimus in nature.

ADA IMPROVEMENTS

- As referenced, the existing structure was constructed in or about the 1920's.
- Having been constructed in the approximate 1920's, the original building was clearly not designed to meet / satisfy modern / prevailing ADA Regulations.
- In that some aspects of the existing building have been vacant and essentially untouched for approximately 15-years or longer, it is unlikely that any ADA improvements have been incorporated into the building in the last several decades.
- The existing building is not compliant with Prevailing / Modern ADA Regulations.
- There are a number of handicap accessible deficiencies associated with the existing structure.
- Some of the existing accessibility deficiencies (associated with the existing building) include the following:
 - i. The existing elevator only runs from the basement to the 1st Floor (i.e., the elevator does not extend to the existing 2nd or the existing 3rd Floors);
 - ii. The 2nd / 3rd Floors are not accessible by individuals who are handicapped or whose mobility is otherwise challenged;

- iii. There are no bathrooms on the existing 3rd Floor (let alone handicapped accessible bathrooms); and
 - iv. There are no known ADA bathrooms in the existing facility.
- Approval of the within Application will result in significant ADA improvements being effectuated at the site.
- Proposed accessibility improvements include the following:
 - Inclusion of a fully functioning elevator which can transport individuals from the basement to the 3rd floor, and back;
 - Installation of handicap accessible bathrooms throughout the building; and
 - Installation of handicap accessible doors and railings, etc.
- Upon completion of the renovation process, the site will become ADA compliant.
- The lack of any ADA-accessible amenities at the site is neither functional, practical, nor desirable, particularly in 2024.
- The lack of accessible improvements at the existing site compromises the ability / desire of handicapped individuals (or other individuals whose mobility is challenged) to comfortably / easily / freely access / utilize the site / facility.
- The lack of accessible improvements at the existing site, from a development standpoint, is not acceptable in today's modern society.
- As part of the within renovation project, significant accessibility improvements will be effectuated.
- The installation of the aforesaid accessibility improvements at the site will render the property much more inviting, much more accessible, and much more open to accommodate handicapped individuals (and other individuals whose mobility is challenged).
- Increased handicapped accessibility at the site is a very laudable and very necessary development goal.

EXISTING STOREFRONT VACANCY

- Per the testimony and evidence presented it appears that the basement and 1st floor level of the building has been vacant for approximately 15 years and other portions of the building have been vacant for perhaps even a longer period of time.

- The presence of vacant storefronts on Broad Street, in the heart of the Borough's Downtown Commercial District, does not advance the short-term or long-term interest of the Borough of Red Bank.
- The presence of vacant buildings on Broad Street, in the heart of the Borough's Downtown Commercial District, does not promote the commercial interests or economic stability of the Municipality.
- The presence of vacant buildings on Broad Street, in the heart of the Borough's Downtown Commercial District, does not necessarily promote / project economic strength, stability, vitality or confidence.
- Full occupancy / utilization of the building, particularly a building located in the heart of the Borough's Downtown Commercial area, will be beneficial for the Borough of Red Bank, on many different levels.
- Full occupancy / utilization of a building, located in the Borough's Downtown Commercial District, should help other area businesses as well.
- Full occupancy / utilization of a building, particularly a building located in the Borough's Downtown Commercial District, will promote economic strength and vitality.
- Full occupancy / utilization of a building, particularly a building located in the Borough's Downtown Commercial District, will help attract pedestrians, shoppers, and patrons for other existing uses in the Downtown area.
- Retail Use is permitted in the Zone. However, per the testimony and evidence presented, Retail Use has not been a major draw at the site, as evidenced by, among other things, the approximately 15-year vacancy at the site.
- Per the testimony and evidence presented, the nature / extent of modern-day retail, and the Amazon-type of other retail services which provide overnight shipping, potentially complicate / limit the operational success of other so-called traditional Retail Uses at the site.
- In order to attract and maintain viable economic uses, and in order to have a vibrant / energetic Downtown area, Towns, and by extension, Land Use Boards, must sometimes adapt and / or otherwise accommodate, applications which are designed to accommodate prevailing economic trends / market changes.

- Per the testimony and evidence presented, the failure of a Governing Body / Land Use Board to appropriately adapt to changing times, changing markets, changing economic trends, and changing retail procedures can, under certain circumstances, promote, perpetuate, or otherwise contribute to long-term vacancy rates in traditional retail-only areas.
- Per the testimony and evidence presented, the ability of a Governing Body / Land Use Board to appropriately adopt to changing times, changing markets, and changing national / local retail trends, can help stabilize, grow, and even fortify a Borough's Commercial Downtown Area.
- Sometimes, in light of changing economic times, changing markets, changing economic trends, and changing retail procedures, it is necessary for a Land Use Board to be creative – and look outside of, or beyond, the so-called typical “box,” so as to attract and maintain a vibrant Commercial District. However, a Land Use Board should only look outside of, or beyond, the so-called “box” when doing so can be done without causing substantial detriment to the public good.
- While changing economic markets, and changing retail procedures can be a factor in a Development Applications, the same is not the only factor.
- Rather, Land Use Boards must be sensitive to only approve Applications as long as the same can be effectuated without causing adverse impact to the site, the neighborhood, or the community as a whole.
- For the reasons set forth herein, and subject to the conditions contained herein, the Board finds that the Applicant's proposed primary food use, a permitted use, can be effectuated without causing any substantial detriment to the public good.
- Red Bank has long been a host site for hip, new, and creative uses – and the within Application is consistent with the aforesaid practice.

MASTER PLAN / PRESERVATION OF OLDER STRUCTURES

- The Board is aware that the Borough's 2023 Master Plan essentially contains the following objective:

As part of the larger goal of expanding the commercial tax base, the Downtown should grow and thrive. Development should be encouraged, historic structures and areas should be protected... it should also be recognized that Red Bank is an important urban center for the region.

The Board finds that subject to the conditions contained herein, approval of the within Application will certainly advance and further such an objective.

- The Borough's Master Plan recites the importance of promoting the retention of existing businesses and the development of new businesses – and, the Board finds that approval of the within Application will advance such an objective.
- One objective of the Master Plan essentially involves the need to facilitate a favorable business climate – and the Board finds that approval of the within Application will advance such an objective.
- One objective of the Borough's Master Plan essentially involves the need for Red Bank to continue to be a destination place for shopping, the arts, personal services, dining, and entertainment. The Board finds that the Applicant's proposed hybrid mixed use approved herein will advance such a goal / objective.
- One objective of the Borough's Master Plan essentially involves the need to promote diversity within the Borough's economic base. Per the testimony and evidence presented, and given the changing economic times, and the changing national / international retail industry, the Board finds that the Applicants proposed primary food use will certainly promote diversity within the Borough's economic base.
- The Board is aware that one objective in the Borough's Master Plan essentially involves the need to maintain and improve the commercial vitality of the Downtown area. Towards that end, the Board finds that approval of the within Application will certainly help promote the commercial vitality of the Downtown area (particularly in light of the long-term vacancy rate of the subject building).
- The testimony indicated that the existing building has been vacant for approximately 15-years. Approval of the within Application will, essentially, breath/bring new life to the site. The concept of an existing vacant / underutilized building being utilized for a primary food use and other potentially permitted uses is a unique and innovative design idea.
- The Borough of Red Bank has long been a host community for other innovative and unique designs / uses / concepts.
- One purpose of the Municipal Land Use Law is to essentially encourage the creation of a desirable visual environments through creative development techniques – and approval of the within Application will advance such a goal.

- The concept of converting an existing building into a potential primary food use / other permitted use represents an appropriate adaptive re-use of already developed space.
- The existing building is quite old (upon information and belief having been constructed about 100+ years ago) and approval of the within Application will allow the existing structure to remain intact.
- Approving a Development Application which allows for an aging structure (built about 100+ years ago) to remain intact advances a legitimate development goal.
- Other development opportunities for the site could potentially result in the destruction / demolition of the existing building on the site – and such destruction / demolition would not, in and of itself, be in the best interests of the Borough of Red Bank, or the residents thereof.
- Development Applications which encourage / embrace the preservation and utilization of older, historic-like, and / or unique buildings serve a legitimate development goal.
- Approving Applications which encourage/embrace the preservation and utilization of older, historic-like, and / or otherwise unique buildings essentially advance the purposes of the Borough's Master Plan.
- There is a legitimate Borough related interest in preserving buildings which have significant or otherwise unique architectural charm (when possible / practical).
- The Application approved herein will allow the existing building to be preserved, but nonetheless utilized for modern purposes.
- Approval of the within Application constitutes an adaptive re-use of an existing building which, upon information and belief, is approximately 100 years old. That is, per the testimony presented, the existing building is underutilized, and has been vacant for approximately 15-years – and approval of the within Application will result in the restoration and revitalization of the building, so that the same is more functional, more modern, and more steadily utilized.
- Appropriate renovation and revitalization of an old and underutilized building is a worthwhile goal which the Red Bank Zoning Board applauds.
- Demolition of the existing building would obviously result in elimination of an old structure, which, in a general sense, the Board would like to avoid, if at all possible.

- Subject to the conditions set forth herein, approval of the within Application will result in the revitalization / restoration of an old building, while still maintaining/promoting elements of the Borough's history.
- The Borough's 2023 Master Plan essentially discusses certain visions of development within the Borough. One of the aforesaid visions, essentially, is that "the wonderful, comfortable, walk-able historic character of Red Bank must be preserved and improved as... new development and growth takes place. This means that the best of the old building, should remain and that the new buildings add to the architectural richness of the Town's heritage..." It is believed that subject to the conditions set forth herein, approval of the within Application generally helps promote such a vision.
- The 1996 Red Bank Vision Plan contains a section which encourages the preservation of the dignified character and landscape of stately older homes / structures by encouraging present day economic uses. The Vision Plan further suggests that preserving such structures conveys a positive image of prosperity and stability, which should be preserved and continued. In a very broad / general sense, the Board is of the belief that the approval of the within Application will advance such a goal / mission as well.
- The area surrounding the property is surrounded by other commercial, retail uses, restaurant and office uses and the uses approved herein are consistent therewith.

GENERAL

- The Application as presented requires a Variance for a Side Yard Setback. Specifically, a 10 ft. Side Yard Setback is required for any uses abutting a Residential Zone / Use; whereas, in the within situation, the adjacent property (19 Broad Street) contains Residential Apartments on the 2nd and 3rd Floors. Thus, a 10 ft. Side Yard Setback is required; whereas, the Applicants' representatives are proposing an addition to the rear of the building (over the existing 3rd Floor) which only has a Setback of 0 ft. Therefore, a Variance is required.
- The Board notes that the existing building has a 0 ft. Setback – and the addition approved herein will merely honor / continue the said condition.
- The Board is aware that the roof-top deck will be adjacent to a brick wall of the neighboring building. Thus, the roof-top deck will not interfere with the surrounding Residential Apartments.

- The Board is also aware that the roof-top deck will not be visible from the public street.
- The improvements authorized herein will not materially change the amount of existing air, space, and light at the site.
- Per the testimony and evidence presented, the rear portion of the building suffers from deferred maintenance – and approval of the within Application will result in needed physical improvement of the said area.
- The Application as presented also requires a Variance regarding off-street loading spaces. Specifically, the Prevailing Regulations require 1 off-street loading space for any building having over 10,000 SF of gross floor area or more. In the within situation, no loading area is currently provided – and thus, Variance relief is required.
- In conjunction with the loading space Variance, the Board notes that the said condition is an existing condition, which is not being exacerbated as a result of the within approval.
- The Board also notes that prior commercial establishments at the site also did not have a loading space.
- There was extensive testimony presented regarding how deliveries will be effectuated at the site (through the rear alley) – and, based upon such testimony and evidence, the Board finds that the requested Variance can be granted without causing substantial detriment to the public good.
- The Red Bank RiverCenter reviewed the proposal and indicated that the proposal is “terrific” and will greatly improve the building’s façade. As a result, the RiverCenter “unequivocally” approved the proposal. The Board appreciates the comments from the Red Bank RiverCenter.
- Approval of the within Application will not change the ground-level footprint of the existing structure.
- Approval of the within Application will not materially change the height of the existing structure (although a roof-top deck / garden will be added).
- The Red Bank RiverCenter strongly encouraged approval of the Application.
- A Variance was previously granted at the site for lot coverage (maximum 65% allowed; whereas approximately 100% previously approved. As indicated, the said Variance was previously granted, and approval of the within Application will not exacerbate the said condition.

- Because there will be no substantial physical change to the exterior structure, approval of the within Application will not trigger any grading / drainage concerns.
- The Applicant's representatives essentially testified that the within Application constitutes an adaptive re-use of an existing building and the Board so affirms.
- The Application requires approval for a Lot Coverage Variance. Towards that end, the Board is aware that the maximum allowable Lot Coverage is 65%, whereas approximately 100% Lot Coverage currently exists. The Board is aware that the said condition is an existing condition, which will not be aggravated as a result of the within approval.
- Approval of the within Application (in conjunction with the conditions noted herein) will not impair the intent or purposes of the Borough's Master Plan.
- Subject to the conditions set forth herein, the proposed use will have no known negative impact on adjoining properties and thus, the Application can be granted without causing substantial detriment to the public good.
- Approval of the within Application will promote various purposes of the Municipal Land Use Law; specifically, the same will provide a desirable visual environment through creative development techniques.
- One of the purposes of the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-2) is to promote the establishment of appropriate population densities which will contribute to the well-being of persons, neighborhoods, and communities. For the reasons set forth herein, or majority of the Board is of the opinion that approval of the within Application will promote such a purpose.
- Subject to the conditions set forth herein, and subject to the Design Waivers requested, the Application as presented satisfies the Preliminary and Final Site Plan Requirements of the Borough of Red Bank.

Based upon the above, and for the other reasons set forth during the Public Hearing Process, a majority of the Board is of the belief that the requested relief can be granted without causing substantial detriment to the public good.

CONDITIONS

During the course of the Hearing, the Board has requested, and the Applicant's representatives have agreed, to comply with the following conditions:

- a. The Applicant's representative shall comply with all promises, commitments, and representations made at or during the Public Hearing Process.
- b. The Applicant shall comply with the terms and conditions of the T&M Associates Review Memorandum, dated April 19, 2024 (A-10) and May 15, 2024 (A-11).
- c. The Applicant shall comply with all prevailing noise / decibel regulations as the State of New Jersey and Borough of Red Bank may require.
- d. The Applicants' representatives shall cause the Plans to be revised so as to portray and confirm the following:
 - Confirmation that the Applicant shall comply with all Municipal Hours of Operation Requirements as determined by the Borough of Red Bank;
 - Confirmation that the existing "Doremus" sign on the existing building shall be painted in some type of black coloring, in accordance with the determination of the Historic Preservation Commission;
 - Confirmation that the actual 3rd Floor windows shall be removed and replaced with windows which are similar in appearance to the existing 2nd Floor windows at the site;
 - Confirmation that the building entry shall be tiled, while highlighting the street address of the property, in accordance with the Review Memorandum from the Historic Preservation Commission;
 - Confirmation that the existing building shall be painted in an Historic Preservation Commission-approved color palette;
 - Confirmation that the roof-top mechanicals shall be shielded;

- Confirmation that the Applicants' representatives shall, in good-faith, participate in the Area Valet Program so as to further minimize any adverse impacts associated with the parking deficiency;
 - Confirmation that there shall be no outside storage of materials;
 - Confirmation that there shall be no outside storage of garbage;
 - Confirmation that per the Review Memorandum from the Historic Preservation Commission, the "Doremus" name on the exterior of the building shall be painted in some type of black coloring;
 - Confirmation that the Plans have been revised so as to address the concerns of the Historic Preservation Commission, as set forth in the HPC Review Memorandum, dated May 15, 2024 (A-15);
 - Confirmation that the Applicants' representatives shall install an interior plaque in the building, providing information regarding architectural history of the building.
- e. Per the testimony presented, the buildings shall only be used for a primary food establishment or other permitted use / uses, absent further formal approval of the Red Bank Zoning Board of Adjustment.
- f. If applicable, and unless otherwise waived, the Applicants' representatives shall submit an Affordable Housing Plan which shall be reviewed and approved by the Borough's Director of Community Development and the Borough's Affordable Housing Attorney.
- g. The Application as proposed involves sunshades extending into the Municipal Right-Of-Way. The Zoning Board of Adjustment has no authority to grant such permission on behalf of the Borough of Red Bank for such an encroachment. Thus, the within approval shall be contingent upon the Applicants' securing written permission / approval from the Borough of Red Bank to allow the sunshades to extend into the Municipal Right-Of-Way.
- h. Per the on-the-record discussion at the Public Hearing, if drainage issues are created / encountered associated with the roof deck, then, in that event, the Applicants (or any subsequent Owners) shall address / resolve the same (at the sole cost of the Applicants or successor Owners).

- i. The façade work (windows, store-front, restoration, painting) and elevator and stair work shall be completed regardless of what Tenants are ultimately selected to occupy the leased space. (The remaining interior fix-up work will be a product of which Tenants ultimately occupy the property.)
- j. As discussed at the Public Hearing process, the Applicants' representatives have designed the plan to accommodate the "worst case" scenario parking demand. Thus, the Applicants reserve the right to modify the Tenant mix at the site between primary food use, and other permitted uses. Any mix of Tenants at the site shall not require further approval from the Zoning Board of Adjustment, unless a new Variance is triggered, a previously granted Variance is exacerbated, new exterior construction or additions are implicated, or such Board approval is otherwise determined necessary by the Zoning Officer.
- k. The Applicants shall comply with the terms and conditions of any review from the Municipal Fire-Sub Code Official and any Agency/Division thereof.
- l. The Applicants shall comply with all prevailing ADA Regulations.
- m. The Applicants' representatives shall comply with the terms and conditions of all prior Approvals, unless specifically obviated herein.
- n. The Applicants shall secure private garbage / recycling pick-up at the site. The frequency of garbage / recycling pick-up shall be increased, as necessary, or as otherwise deemed appropriate by the Borough of Red Bank, or any applicable agent thereof.
- o. All signage at the site shall comply with prevailing Zoning Regulations, absent further Approval of the Red Bank Zoning Board of Adjustment.
- p. The Applicants shall pay any and all required fees, including, but not limited to, the Water Vulnerability fee, the Shade Tree Fee, Water and Sewer Connection fees, etc.
- q. Any maximum occupancy level at the site shall comply with prevailing Building Code Requirements, Construction Code Requirements, and Fire Sub-Code Requirements.
- r. Noise from the site shall comply with prevailing Municipal Regulations, as the same may be amended from time to time.
- s. If the Applicants intend to serve alcohol, the Applicants shall apply for and obtain any and all applicable / necessary liquor licenses from the Borough of Red Bank, the State of New Jersey, and any other agency having jurisdiction over the matter (including any permission to operate a

“BYOB” type of establishment). The Applicants shall also comply with any conditions / restrictions on the liquor license which may be imposed by the Borough of Red Bank, the State of New Jersey, or any Agency having jurisdiction over the matter. Note: Per the on-the-record discussion, the Applicants’ representatives are aware that the Zoning Board has no jurisdiction over alcohol-related matters.

- t. The Applicants shall obtain any and all approvals from the Board of Health (and any other Agency having jurisdiction over the matter) for any food/drink aspect of the operation.
- u. The Board Members solicited extensive testimony regarding the nature / extent of the proposed permitted use / uses for the Site – and, in response, the Applicants’ representatives testified as to the general number of employees who would be on the Site for any sustained period of time, a limited amount of deliveries associated with the proposed use / uses, the type of activities associated with the use, and the type of entertainment associated with the proposed use / uses. The Zoning Board finds that such a proposed / permitted use / uses will not be out of character for the area and the same will not have an adverse impact upon the Borough’s Master Plan, the subject Zone, or the adjoining neighborhood. Moreover, it is submitted that a more intense use / uses at the Site (than testified to) may not have been approved. Thus, the Board specifically notes that any operation at the Site which appreciably deviates from the non-intense testimony / evidence presented will require further approval from the Zoning Board of Adjustment.
- v. The conditions and restrictions associated with the within approval shall run with the land, as well as be binding upon any successor owners, tenants, operators, etc.
- w. The Applicants shall comply with and satisfy any and all applicable affordable housing related obligations / directives / contributions / payments as mandated by the State of New Jersey, the Borough of Red Bank, COAH, the Court System and any other Agency having jurisdiction over the matter.
- x. The Borough’s Building Department shall review and approve the Plans for ADA Compliance, as necessary / applicable.
- y. The Development shall be strictly limited to the plans which are referenced herein, and which are incorporated herein at length. Additionally, the development / construction shall comply with Prevailing Provisions of the Uniform Construction Code.

- z. The Applicants shall obtain any and all required approvals (or Letters of No Interest) from applicable outside agencies (if any) – including, but not limited to, the Department of Environmental Protection, the Monmouth County Planning Board, the Borough’s Fire Official, the Borough’s Police Department, the Borough’s Building Department, Department of Water and Sewer, the Borough’s Shade Tree Commission, the Freehold Soil Conservation District, the Borough’s Department of Public Works, Treatment Works Approval, and the Bureau of Safe Drinking Water. To the extent the nature of the Application or the requested relief materially changes as a result of such outside approvals, then, in that event, the Applicants shall be required to repetition the Zoning Board for further / amended relief.

- aa. The Board is aware that the Borough of Red Bank has a noise ordinance (450-1(b)) which governs / regulates noise generated from the site, including noise generated from outdoor areas at the site. The current Ordinance limits / restricts such noise to cease as follows:

11:00 P.M. on Sundays – Thursdays

12:00 midnight on Fridays / Saturdays, and nights before
Federal Holidays

The within approval is specifically contingent upon continued compliance with the same, as the Zoning Board has no authority to grant any relief from such a police power (non-zoning Ordinance). Compliance with such an Ordinance (as may be amended from time to time) is particularly important, given the fact that the subject development site is located near, or adjacent to residential uses. But for the existence of such a condition, the within Application would not have been approved. Compliance with the within Condition is a continuing obligation. Failure to comply with the said Ordinance (as may be amended from time to time) may result in municipal enforcement action.

- bb. The Applicants shall, in conjunction with appropriate Borough Ordinances, pay all appropriate/required fees and taxes.

- cc. If required by the Board Engineer, and the NJMLUL, the Applicants shall submit appropriate performance guarantees in favor of the Borough of Red Bank.

- dd. Unless otherwise agreed by the Zoning Board, the within approval shall be deemed abandoned, unless, within 24 months from adoption of the within Resolution, the Applicants obtain a Building Permit for the development/use approved herein.

BE IT FURTHER RESOLVED, that the within application is granted only in conjunction with the conditions noted above - and but for the existence of the same, the within Application would not be approved.

BE IT FURTHER RESOLVED, that the granting of the within application is expressly made subject to and dependent upon the Applicant's compliance with all other appropriate rules, regulations, and/or ordinances of the Borough of Red Bank, County of Monmouth, and State of New Jersey.

BE IT FURTHER RESOLVED, that all representations made under oath by the Applicant's representative or their agents shall be deemed conditions of the within approval, and any mis-representations or actions by the Applicants' representative's contrary to the representations made before the Board shall be deemed a violation of the within approval.

BE IT FURTHER RESOLVED, that the action of the Board in approving the within Application shall not relieve the Applicant of responsibility for any damage caused by the project, nor does the Board of Adjustment of the Borough of Red Bank, the Borough of Red Bank, or their respective agents/representatives/employees accept any responsibility for the structural design of the proposed improvements (if any) or for any damage which may be caused by the use / development / conversion.

FOR THE APPLICATION: Anne Torre, Raymond Mass, Eileen Hogan, Ben Yuro, Vincent Light, and Anna Cruz.

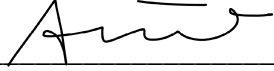
AGAINST THE APPLICATION: Paul Cagno

ABSTENTIONS: N/A

FOR THE RESOLUTION: Anne Torre, Raymond Mass, Eileen Hogan, Ben Yuro, Vincent Light, Anna Cruz, and Amanda Califano.

AGAINST THE RESOLUTION: N/A

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Red Bank Zoning Board of Adjustment on this 6th day of June, 2024.



Aline Macatrao, Zoning Board Secretary

KEK/dmp
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